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Paper No. 7

JUL 22 2003

Technology Center 2100

In re Application of: Booth et al.)
Application No. 09/327,708)
Attorney Docket No. YOR919990190US1) DECISION ON PETITION TO
Filed: June 8, 1999) WITHDRAWAL HOLDING OF
For: REPRESENTING, CONFIGURING,) ABANDONMENT UNDER 37 CFR §
ADMINISTERING, MONITORING,) 1.181(a)
AND/OR MODELING CONNECTIONS)
USING CATALOGS AND MATRIXES)
)

This is a decision on the "Petition to Enter Amendment as Filed" (filed April 16, 2003), filed in response to a Notice of Abandonment (Paper No. 5, mail date April 8, 2003). The petition is being considered under 37 CFR § 1.181 as requesting the withdrawal of the holding of abandonment and acceptance of papers as timely filed.

BACKGROUND

Sep 4, 2002 Restriction mailed setting one-month period for reply (Paper No. 4)

Apr 8, 2003 Notice of Abandonment mailed (Paper No. 5)

ISSUES

The practitioner states a fax was sent to phone number "703-305-9731" and "703-705-9731". The Notice of Abandonment is provided as Exhibit A, a confirmation of fax transmittal is Exhibit B including a certification of facsimile transmission and pages 5-6 of the Office action are Exhibit C with the group phone number circled in red for emphasis.

DECISION

A review of the documents provided by the practitioner includes a petition with an express mail certificate which certifies submission of "Petition to Enger [sic] Amendment as filed and Contingency Petition to Revive Application," "Exhibit A" and "Exhibit B." Also provided is a USPTO letter signed by Nicholas Godici addressed to "Patent Business Customer" regarding the revised amendment procedures. Exhibit B is a copy of a facsimile cover sheet with the date of "4/7/03". A certificate of facsimile transmission signed by Margaret McCabe to telephone number "(703) 308-9031" on September 13, 2002 along with a transmittal report for the same date to "7033059731" for 2 pages is provided. The final page is a response to the restriction

requirement with a certificate of facsimile transmission to "(703) 308-9031" signed by Margaret McCabe. The submission does not include "Exhibit C" and no evidence is "circled in red for emphasis." Petitioners did not include a copy of an "Auto Reply" confirming receipt of the facsimile by the USPTO. The practitioner also appears to have made a typographical error on page 1 of the petition citing the fax number as "703-705-9731."

The Office action of September 4, 2002 included two different fax numbers: (703) 305-9731 and "(703) 308-9051." The certificate of transmission signed by Ms. McCabe states the fax was transmitted to "308-9031", a number not provided by the examiner. This number is at odds with the number listed on the fax report of "7033059731." The certificate of facsimile transmission included on the "Amendment" page is also "308-9031".

In considering petitioners' submission under 37 CFR § 1.8(b), the correspondence can be considered timely filed if petitioners meet at least three conditions:

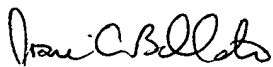
1. Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
2. Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
3. Includes a statement that **attests on a personal knowledge basis** or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

[Emphasis added.]

Considering the errors in the petition (no Exhibit C and misstatement of the telephone number) along with the errors in the practitioner's certificate of express mail (submission of "Enger Amendment") and the apparent errors in the original certificates of transmission of September 13, 2002; a more complete statement from the parties (Ms. McCabe and Mr. Herzberg) attesting to their personal knowledge is needed. The practitioner should also explain why Exhibit B, a fax cover sheet dated "4/7/03," should be considered a confirmation of this fax transmittal.

Accordingly, the petition is **DISMISSED**.

If the petitioner desires further review of this decision, petitioner should file a Request for Reconsideration within two (2) months of the mailing date of this decision. Telephone inquiries should be directed to the undersigned at 703-308-0269.



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